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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,670	07/15/2003	Leonard McCoy	MCL-100-A	7171

7590 07/26/2004

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EXAMINER

DAHBOUR, FADI H

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/619,670	Applicant(s) MCCOY, LEONARD	
	Examiner Fadi H. Dahbour	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Star.

Star discloses a male condom (Figs.1-17), comprising a unitary body having a closed end and an open end (see right and left of Fig.1), the unitary body having a first elongated generally tubular section adapted to fit a penis of a male (see right-half of Fig.1), the first elongated generally tubular section having the closed end (see right-half of Fig.1), a second section extending from the first elongated generally tubular section (see left-half of Fig.1), the second section being adapted to fit a scrotum of a male (see left-half of Fig.1), the second section having the open end (see left-half of Fig.1), and a resilient means adjacent the open end adapted to hold the condom securely to a male (130 of Fig.1), the resilient means adapted to fit between the scrotum and the torso of a male (130 of Fig.1), wherein the unitary body comprises one of latex rubber, animal skin and a synthetic membrane (see "latex" in line 30 of col.2), wherein the resilient means adjacent the open end allow expansion of open end of second section over larger size of scrotum and then reduces and grips a smaller size between the scrotum and a torso of a male (130 of Fig.1), wherein the resilient means can be configured in one of a round and square configuration (130 of Fig.1), wherein the resilient means being adjustable and flexible (130 of Fig.1), wherein the second section adapted to and cups a male scrotum (see left-half of Fig.1),

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further comprising a condom for use by a user for the prevention of pregnancy and the prevention of disease (Fig.1), comprising a body having a closed end an open end (see right and left of Fig.1), the body having a first section adapted to fit one of a penis and a penile facsimile (see right-half of Fig.1), the first section having the closed end (see right-half of Fig.1), a second section adapted to fit one of a scrotum of a user and a genital facsimile (see left-half of Fig.1), the second section having the open end (see left-half of Fig.1), and a resilient gripper means near the open end of the body adapted to hold the condom securely to a user (130 of Fig.1) and adapted to fit one of between the scrotum and the pelvis of a user and onto a genital facsimile (130 of Fig.1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Star.

Regarding claim 9, Star, as described above, discloses all the features claimed except being sized for a multiplicity of sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star being sized for a multiplicity of sizes, for different users having different sizes.

Regarding claim 10, Star, as described above, discloses all the features claimed except being packaged flat with the two sections being visible. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to

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have the condom of Star being packaged flat with the two sections being visible, because Star teaches that "the condom 100 can be packaged, rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col.4).

Regarding claim 11, Star, as described above, discloses all the features claimed except packaging wherein at least a multiplicity of individually packaged condoms are provided. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star have packaging wherein at least a multiplicity of individually packaged condoms are provided, because Star teaches that "the condom 100 can be packaged, rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col.4).

Regarding claim 12, Star, as described above, discloses all the features claimed except the at least a multiplicity of individually packaged condoms being displayed with each packaged condom being placed above and back of a lower condom. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star have the at least a multiplicity of individually packaged condoms being displayed with each packaged condom being placed above and back of a lower condom, because Star teaches that "the condom 100 can be packaged, rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col.4).

Regarding claim 13, Star, as described above, discloses all the features claimed except openable and recloseable packaging wherein the at least a multiplicity of individually packaged condoms are available for selection. It would have been obvious

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to one having ordinary skill in the art at the time the invention was made, to have the condom of Star have openable and recloseable packaging wherein the at least a multiplicity of individually packaged condoms are available for selection, because Star teaches that "the condom 100 can be packaged, rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col.4).

### ***Allowable Subject Matter***

5. Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

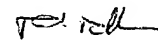
Papurt ('447), Papurt ('890), Gray, Curcio and Serrano et al are cited to show condoms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Fadi H. Dahbour  
Examiner  
Art Unit 3743